

**CHAPTER NO. 821****HOUSE BILL NO. 3285****By Representatives Fitzhugh, McCormick, Bunch****Substituted for: Senate Bill No. 2733****By Senators Henry, Cooper**

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 5, relative to classification and assessment of tangible personal property.

WHEREAS, in light of the very different public purposes served by the ad valorem taxes set out in title 67, chapter 5, part 9, and other state and local taxes, it is the intent of the general assembly that the provisions of this act not be read to affect or alter the treatment of software in any other part of this title; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-5-903, is amended by adding the following language as a new subsection (h):

(h) Property classified as computers under Group 2 shall include all "operational computer software." For purposes of this section, "operational computer software" means embedded software so integral to the operation of a computer that such computer could not perform any valuable or useful function without such software. All other "computer software," whether prepackaged or custom, is deemed intangible personal property for purposes of this part and is not subject to tax under this part. If computer software other than "operational computer software" is included in the sale or lease price of a computer without being separately stated, the cost of the non "operational computer software" must be included in the reported cost of the computer unless an appropriate deduction is established by a claim of nonstandard value or by other means provided under rules of the state board of equalization. This subsection shall not be construed to affect the value or taxable status of any other property subject to tax under this chapter. Nothing in this subsection shall affect a taxpayer's right under §67-5-902, to seek a value different from a standard depreciated cost where the value more closely approximates fair market value.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 23, 2006

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 2nd day of June 2006

  
PHIL BREDESEN, GOVERNOR